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Michael Gilge

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EXAMINER

TREAT, WILLIAM M

ART UNIT

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2181

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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1. Claims 14-26 are presented for examination.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilge (DE 101 53 484 A1) in view of Martin (Local Area Networks).
4. In that applicant is the inventor of German patent application DE 101 53 484 A1, the examiner sees no reason to explain its teachings in detail to applicant pointing to column and line. Therefore he will merely explain the teachings of DE 101 53 484 A1 as they relate to the claims. DE 101 53 484 A1 describes a security system which gathers data in the form of video/audio signals through connections to one or more signal processing devices linked to the connections. The data is processed by the signal processing devices in various manners before being transmitted to an evaluation processor which is capable of using the differing perspectives and processes presented by the signal processing devices to provide analyses to a user which help to better identify potential security risks. In the current application the applicant has implemented the system of DE 101 53 484 A1 using a star-shaped, Ethernet-standard network with a hub. As the applicant is using just well-known, local area network (LAN) devices to implement his system, the question becomes is there any motivation for him to use such a LAN to implement his system.

5. Martin taught LAN's have been used to implement alarm and security systems (p. 8) so there is motivation to use a LAN. Given that that there is a teaching of using a LAN in security systems such as applicant's, is there motivation to use an Ethernet-based, star-shaped network for the LAN which has one or more hubs? On pages 192 and 193 Martin discusses LANs based on wiring closets which is relevant to applicant's situation where applicant, to market security systems, is faced with the task of wiring buildings. Martin teaches that, "in many cases, the best solution to local area network wiring is to create a star-wired configuration". On those pages he depicts an Ethernet LAN configured as a star network with the network acting as the backbone of the system depicted. Only one hub is depicted, but it is clear more could be integrated into the network, if desirable.

6. On pages 312 and 313, Martin teaches some basics of hubs, ports, switches, etc. which make it clear that the combination of hub, switch, port, and processors does not represent anything new in the art. As to configuring hub, switch, port, and signal processing devices into one housing, this is a very logical approach for businesses which lack networking, DSP, etc. expertise but which want a security system that is compact, quickly installed, and readily-expanded to meet new requirements.

7. DE 101 53 484 A1 teaches those aspects of applicant's claims 12-26 which relate to the use of signal processing devices to gather and analyze data. Martin makes clear those aspects related to networking are merely the application of well-known networking techniques in a logical manner for which there is motivation.

8. MPEP 2141 reads, in part, as follows:

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The Supreme Court in *KSR* reaffirmed the familiar framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)), but stated that the Federal Circuit had erred by applying the teaching-suggestion-motivation (TSM) test in an overly rigid and formalistic way. *KSR*, 550 U.S. at, 82 USPQ2d at 1391. Specifically, the Supreme Court stated that the Federal Circuit had erred in four ways: (1) "by holding that courts and patent examiners should look only to the problem the patentee was trying to solve" (*Id.* at \_\_ 82 USPQ2d at 1397); (2) by assuming "that a person of ordinary skill attempting to solve a problem will be led only to those elements of prior art designed to solve the same problem" (*Id.*); (3) by concluding "that a patent claim cannot be proved obvious merely by showing that the combination of elements was obvious to try" (*Id.*); and (4) by overemphasizing "the risk of courts and patent examiners falling prey to hindsight bias" and as a result applying "[r]igid preventative rules that deny factfinders recourse to common sense" (*Id.*).

In *KSR*, the Supreme Court particularly emphasized "the need for caution in granting a patent based on the combination of elements found in the prior art," *Id.* at \_\_ 82 USPQ2d at 1395, and discussed circumstances in which a patent might be determined to be obvious. Importantly, the Supreme Court reaffirmed principles based on its precedent that "the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at \_\_ 82 USPQ2d at 1395.

9. The Supreme Court further stated that:

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his ordinary skill. *Id.* at \_\_ 82 USPQ2d at 1396. When considering obviousness of a combination of known elements, the operative question is thus "whether the improvement is more than the predictable use of prior art elements according to their established functions." *Id.* at \_\_ 82 USPQ2d at 1396.

10. All the elements necessary to produce applicants' invention were known in the art. How one combined such elements to produce applicants' invention was also known in the art. Evidence of this is that applicants' disclosure lacks any detailed description of the circuitry necessary to implement applicants' invention. In fact, applicant's original

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drawing was so faulty and so limited as to almost preclude enablement of applicant's invention. One of ordinary skill would have readily recognized that the results of the combination were predictable. Absent some secondary considerations, not in evidence at this time, applicants invention is obvious over the combination of prior art presented.

11. Applicant's arguments filed 4/22/2008 have been fully considered but they are not persuasive.

12. Applicant argue for a rigid application of the TSM test while ignoring the more recent precedent of the Supreme Court's *KSR* decision which argues the test is "whether the improvement is more than the predictable use of prior art elements according to their established functions".

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

15. Any inquiry concerning this communication should be directed to William M. Treat at telephone number (571) 272-4175.

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16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/William M. Treat/  
Primary Examiner, Art Unit 2181